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SAN BERNARDINO and JUSTIN
LOPEZ

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

A.H. and H.H., in each case a minor, by
and through their guardian ad litem
Crystal Hanson, individually and as
successor in interest to Shane Holland,
deceased; C.H., a minor, by and through
her guardian ad litem, Reymi Updike;
individually and as successor in interest
to Shane Holland, deceased, and
PATRICIA HOLLAND, individually,

Plaintiffs,

v.

COUNTY OF SAN BERNARDINO;
JUSTIN LOPEZ, and DOES 1-10,
Inclusive,

Defendants.

Case No. 5:23-CV-01028 JGB-SHK

*[Honorable Jesus G. Bernal, Magistrate
Judge, Shashi H. Kewalramani]*

**DEFENDANTS' EVIDENTIARY
OBJECTIONS TO PLAINTIFFS'
EVIDENCE ISO PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT [DOC. 37]**

Date: September 23, 2024
Time: 9:00 a.m.
Crtrm.: Courtroom 1

Action Filed: 06/02/2023

**TO THIS HONORABLE COURT AND THE PARTIES AND THEIR
RESPECTIVE COUNSEL OF RECORD:**

In accordance with C.D L.R. 7-6, defendants County of San Bernardino
("County") and Deputy Justin Lopez ("Deputy Lopez") (collectively "Defendants")
herein Object to Plaintiffs' evidence submitted in support of Plaintiffs' Opposition to
Defendant's Motion for Summary Judgment [Doc. 37].

EVIDENCE	OBJECTION	Ruling
1. Declaration of Roger Clark [Doc. 37-2].	<p>Speculative expert testimony. (F.R.E. 702); <i>U.S. v. Hermanek</i>, 289 F.3d 1076, 1094 (9th Cir. 2002) (“The trial judge in all cases of proffered expert testimony must find that it is properly grounded, well reasoned, and not speculative before it can be admitted. The ... expert must explain how the conclusion is so grounded.” (quoting Fed. R. Evid. 702, comm. note)).</p> <p>Improper expert methodology. (F.R.E. 702, 703); <i>Gen. Elec. Co. v. Joiner</i>, 522 U.S. 136, 146-47 (1997) (holding courts have discretion to decide that materials relied upon by experts are insufficient to support an expert’s conclusions). Roger Clark’s declaration does not provide any data or basis for his opinions.</p> <p>Improper testimony of an expert witness as to a legal question. (F.R.E. 702); <i>Aguilar v. Int’l Longshoremen’s Union Local No. 10</i>, 966 F.2d 443, 447 (9th Cir. 1992) (“[E]xpert testimony consisting of legal conclusions [is] not admissible.” (citing <i>Marx v. Diners Club, Inc.</i>, 550 F.2d 505, 509 (2d Cir. 1977))). Roger Clark is opining on what is proper to consider under the relevant</p>	Sustained/ Overruled

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	<p>constitutional analysis.</p> <p>Further, the only source of evidence is conclusory, uncorroborated, and self-serving declaration. <i>Nigro v. Sears, Roebuck & Co.</i>, 784.3d 495, 497 (9th Cir. 2015); <i>Villarimio v Aloha Island Air, Inc.</i>, 281 F.3d 1054, 1061 (9th Cir. 2002); <i>F.T.C. v. Publ'g Clearing House, Inc.</i>, 104 F.3d 1168, 1171 (9th Cir. 1997).</p> <p>Hearsay (F.R.E. 802); Relevance, Lack of Foundation and Personal Knowledge (F.R.E. 401, 402).</p> <p>Not material as it does not raise a triable issue of a material fact. <i>See Anderson v. Liberty Lobby, Inc.</i>, 477 U.S. 242, 248 (1986) (“as to materiality, the substantive law will identify which facts are material. Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.” (Internal citations omitted.)</p>	
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1 DATED: September 12, 2024

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